

## CITY OF LAS VEGAS

### ETHICS REVIEW BOARD MEETING

**APRIL 19, 2001 - 1:30 P.M.**

**(Open Meeting)**

I. The Meeting of the Ethics Review Board was called to order by Chair Earle W. White, Jr. at 1:39 p.m. in the 8<sup>th</sup> Floor Conference Room, City Hall, 400 Stewart Avenue, Las Vegas, Nevada.

II. MEMBERS PRESENT: Earle W. White, Jr., Chair  
Ida Gaines  
Linda Young

MEMBERS EXCUSED: Robert Fleming, Vice Chair  
Eileen Brookman

STAFF PRESENT: Deputy City Attorney Larry Bettis  
Barbara Jo "Roni" Ronemus, City Clerk  
Beverly Bridges, Chief Deputy City Clerk  
Vicky Darling, Assistant City Clerk

Board members were identified for the record.

III. City Clerk Barbara Jo "Roni" Ronemus noted that the meeting was properly noticed and posted in accordance with N.R.S. 241.

IV. APPROVAL OF THE MINUTES FOR THE FEBRUARY 15, 2001 MEETING.

**A motion was made by Member Linda Young, and seconded by Member Ida Gaines, to approve the Minutes of the February 15, 2001 meeting that had been previously provided to the members. Motion carried unanimously with Vice Chair Robert Fleming and Member Eileen Brookman excused.**

V. **BUSINESS (OPEN MEETING)**

A. DISCUSSION AND POSSIBLE ACTION CONCERNING THE ISSUANCE OF AN ADVISORY OPINION REGARDING CONFLICTS OF INTEREST AND DISQUALIFICATION FROM CONSIDERATION [LVMC 2.51.040].

Chair White began the discussion by saying he requested a copy of Las Vegas Municipal Code 2.51.040 be submitted to the members. The reason he wanted to have this item on the agenda is because of litigation the Board was involved in. There had been a belief that a person could disqualify themselves due to a conflict of interest, but be involved in other issues in connection with a matter. If there is a conflict of interest, then that person is to disassociate themselves from that matter.

Deputy City Attorney Bettis added that he researched the previous Opinions of this Board and found two Opinions that addressed this topic; one Opinion was 93-4C, which is a Confidential Opinion. However, this Board concluded that if a Council member has a conflict of interest, then that person should disqualify themselves and not vote or have any influence on the decision. Opinion 95-18 was issued on May 17, 1996 and this Board concluded that once the particular public official declared he/she had a conflict they should not participate in voting or discussing any matter with respect to the item under consideration. The State Ethics Commission has addressed this issue recently with regard to a legislator who had a conflict and later joined in on some committee testimony on a Bill. The State Ethics Commission admonished that legislator because they felt it was inappropriate and gave a warning not to do that again.

Chair White asked Deputy City Attorney Bettis if he felt there is enough clarity at the present time on this issue. Until this came up in court and was discussed at length, he did not think there was a problem. If a person disqualifies themselves, the conflict does not go away, so that does not mean that person can make telephone calls, ask people to put things on the calendar, etc. He wondered if anything could be gained if the Board went in the direction of an Opinion on this subject. Deputy City Attorney Bettis thought the Board could issue an Opinion as to what it feels is the appropriate action a public official should take once they disqualify themselves due to a conflict of interest. That would make it clear for future conduct.

Chair White noted that one of the things cited as a precedent was a Council member who was a policeman. He did everything except vote on the Metro budget. Apparently the City Attorney's Office said that was appropriate. Deputy City Attorney Bettis responded that it was his understanding that the matter involving the Metro budget was before the District Court, which issued a ruling that since the Council member was also a member of Metro he could not discuss or vote on Metro's budget as it related to financing, salaries, or other benefits for Metro officers; but he would need to disclose and not participate in those deliberations. Chair White asked if a person could participate in hearings or ask questions. Deputy City Attorney Bettis answered that the court was not definitive on that issue, but merely indicated in its Opinion that that person should not get involved in any discussions involving salary and benefit issues.

Member Gaines asked about other issues related to that operation. Deputy City Attorney Bettis responded by saying each case is individual. In some cases a public official may have unique knowledge or information that only he or she could impart to the body. They should be able to provide that information as long as it is not in the form of lobbying or trying to persuade the body to vote in a certain way. Even the State Ethics Commission has recognized the possibility that certain information is only known to certain individuals and they should be able to discuss that if it will lead to the appropriate outcome in the decision making process.

Member Young asked that if there is a conflict of interest that this Board would see the particular Council person as having, but they don't understand it or see it as a conflict of interest, could the definition devised by this Board be further enhanced in order to cite examples? In other words, would there be something more that this Board could do to assist with further understanding of this particular area? Deputy City Attorney Bettis thought a public official or public employee could look at the code as it is written at the present time, and if there is any question, that individual could seek legal advice from the City Attorney's Office. The City Attorney would give advice in relation to what the code provides. That is already in the code and there is no need to change it. There are a series of Opinions issued by the City Attorney and this Board that can be referenced for past history when those matters arise, and also State Ethics Commission decisions. He noted LVMC 2.51.080, which refers to requesting Advisory Opinions concerning present or future conduct. Public employees and public officials of the City quite frequently ask advice from the City Attorney's Office, approximately three per week are received.

Chair White felt that if there is an understanding and there hasn't been any confusion except the assertion that was made in the case of the Council member who was a policeman, that there does not seem to be a need for an Advisory Opinion. Member Gaines concurred that an Advisory Opinion is not needed.

- B. HEARING TO DETERMINE IF JUST AND SUFFICIENT CAUSE EXISTS FOR THE BOARD TO INVESTIGATE COMPLAINT FILED ON MARCH 7, 2001, BY TIM LAFFERTY AGAINST COUNCILWOMAN LYNETTE BOGGS-McDONALD. BOARD ACTION ON THIS AGENDA ITEM WILL OCCUR IMMEDIATELY FOLLOWING THE HEARING.

Deputy City Attorney Bettis noted for the record that the City Attorney's Office has a conflict in this matter and will not be representing the Board.

Chair White said that everyone involved in this matter has received a copy of the Complaint, etc. He requested the complainant, Tim Lafferty, to come forward. It was determined that he was not in attendance.

Chair White then called Councilwoman McDonald to come forward. She advised the Board that she would be represented by Attorney John Mowbray.

Attorney Mowbray supplemented the record with a document that memorialized his comments concerning the allegations brought by Mr. Lafferty concerning Councilwoman McDonald. He submitted the original to the City Clerk. This matter is a result of an unsigned declaration by an associate of a campaign opponent against an incumbent Council person. Over the last decade Ethics Boards, such as this Board, and the State Ethics Commission, have been used as a tool in campaign practices to besmirch the integrity and character of the incumbent.

In reviewing the document filed by Mr. Lafferty, Attorney Mowbray stated that it reveals that it does not comply with the Code of Ethics requirements since it is not signed under oath, nor is there an affirmation that any of the contents are true and correct. It is a statement attaching a newspaper article that appeared in the print media in Las Vegas in January of this year concerning a trip by the Councilwoman to the University of Notre Dame in October of 1999. In addition, as exhibits there are four records of matters heard before the City Council, two of which were considered routine, none of which had any protests, and all were passed unanimously by the Council members who were present.

He requested Mr. Lafferty's Complaint be removed. Mr. Lafferty has failed to appear here in person to support the allegations contained therein, which suggests this could be a campaign artifice to misuse the purposes of this Board. The Complaint does not comply with the jurisdictional requirements of the Code requiring an affirmation under oath that the contents are true and correct. Upon those grounds he moved for a dismissal.

Attorney Mowbray directed the Boards attention to LVMC 2.51.100, Subsection (1)(e), Page 13, referencing the form of the Complaint. Member Young commented that in terms of LVMC 2.51.100, the Complaint is notarized, but there is no oath; therefore, this process is not completed.

Chair White responded that there is a "How To" Information sheet, Exhibit C, for filing a Complaint for past conduct in the Code of Ethics booklet, which points out how a Complaint is to be done. Action on that exhibit was October 19, 2000. Mr. Lafferty's Complaint does not meet those standards.

**A motion was made by Member Ida Gaines, and seconded by Member Linda Young, to dismiss the Complaint by Tim Lafferty against Councilwoman Lynette Boggs-McDonald. Motion carried unanimously with Vice Chair Robert Fleming and Member Eileen Brookman excused.**

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C. DISCUSSION AND POSSIBLE ACTION ON THE SELECTION OF SPECIAL LEGAL COUNSEL TO ADVISE THE BOARD ON MATTERS RELATED TO THE ISSUE OF LAFFERTY / BOGGS-McDONALD.

Chair White said that since Item B was dismissed, this item is unnecessary.

(2:00 - 2:01)  
1 - 628

D. GENERAL DISCUSSION.

Member Gaines asked what could be done in regard to the frivolous Complaints. However, it does appear this Board does not have any control over those Complaints.

Deputy City Attorney Bettis said the State tried to address that issue. They have the provision where attorney's fees can be assessed and/or a civil penalty assessed against someone filing a frivolous Complaint. That could be researched to see if the City's Charter would allow that to be included in the City's Code. If there was a determination that a Complaint was strictly frivolous, the Board may be able to levy some damages against the person filing the Complaint. Councilwoman McDonald probably spent a lot of money to retain counsel to represent her today and others have done similarly. Member Gaines asked if the State has ever levied any penalties. Deputy City Attorney Bettis responded that there were times when the State imposed a civil penalty.

Chair White added that there are people attending the City Council meetings who take up the Council members time, as well as others involved in the meeting, and have no stake in the outcome of the matter, but want to add their input. However, people should not be discouraged from providing information. He felt the City Attorney's Office could research this issue and if something concrete is found it could be put on the agenda for discussion.

Member Young noted that about a year ago a checklist format was devised for filing Complaints. That indicated all the parts had to be completed prior to submission to the Clerk and the Board members. Perhaps a document could be reviewed prior to the Board members receiving the document, only to come to the meeting to find out that the matter should be dismissed because it did not follow the code. Deputy City Attorney Bettis explained that the Clerk can only receive the documents. This Board has the ultimate decision as to whether a document has been filed properly.

Chair White requested Deputy City Attorney Bettis to inform him of any information that is found which would be of interest to the Board in regard to frivolous Complaints so it could be put on the agenda at a future meeting for discussion.

(2:01 - 2:06)  
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VI. CITIZENS PARTICIPATION

Items raised under this portion of the Agenda cannot be acted upon until the notice provisions of the Open Meeting Law have been complied with. Therefore, action on such items will have to be considered at a later time.

There was no one present wishing to speak under this portion of the agenda.

VII. ADJOURNMENT

Chair White declared the meeting adjourned. The next meeting will be held on June 21, 2001 at 1:30 p.m.

**Meeting adjourned at 2:06 p.m.**

Respectfully submitted,

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Linda Owens, Deputy City Clerk